

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

NATIONAL LIABILITY & FIRE INSURANCE CO. :

and :
:

BOAT OWNERS ASSOCIATION OF THE : Civil Action No: 17-38-S-PAS
UNITED STATES :
:

Plaintiffs, : In Admiralty
:

v. :
:

NATHAN CARMAN :
:

Defendant. :
:

**PLAINTIFFS' REPLY BRIEF
IN SUPPORT OF FOURTH MOTION TO COMPEL**

As is typical, Defendant Nathan Carman's opposition, ECF No. 76-1, was tardy, unreasonable, and lacked credibility. He continues to wrongly think he is the sole person who can decide what is or is "Not applicable." ECF No. 69-1 at 3 and at 7 n.1.

There's a reason firearms have serial numbers, because all are unique. Now that Plaintiffs have found that information (no thanks to Nathan Carman), Serial Number 22C012970 has been unambiguously used in Plaintiffs' fourth motion to compel -- to further identify "the specific firearm that has been associated with the death of his grandfather." December 12, 2017 Order, ECF No. 31 at 4. The firearm Nathan Carman purchased with that serial number had been recorded on ATF Form 4473 as using 7.62 NATO caliber ammunition, ECF No. 68-1 at 8; ECF No. 76-2, and on the retailer's sales slips as using .308 caliber ammunition, ECF No. 68-1 at 4, 5, and 13. Whatever interchangeable 7.62 or .308 calibers are referenced by its manufacturer and retailer,

there can be no question that Plaintiffs are entitled to know the whereabouts of Sig Sauer 716 Patrol Rifle Serial Number 22CO12790 through discovery from Nathan Carman, without his invoking the Fifth Amendment, which he previous waived. ECF No. 59 at 4 n.2; see ECF No. 69-1 at 10-13. On the relevance of that inquiry, “this ship has already sailed,” repeatedly. ECF No. 59 at 2.

Plaintiffs’ next deposition resumption notice will include a request that Nathan Carman produce the Sig Sauer 716 Patrol Rifle, 7.62 NATO/.308 Caliber, Serial Number 22CO12790, purchased by him on November 11, 2013 from Shooter’ Outpost. From his opposition brief, ECF No. 76-1 at 6, it can be anticipated that Nathan Carman will then fall back on his professed concern over violating state firearm laws to rationalize his inability to produce that elusive evidence, and Plaintiffs will then have to file yet another motion to compel. If Nathan Carman still has possession, custody, or control of the Sig Sauer, Plaintiffs request the Court’s assistance in ordering the production of it (without ammunition) and without criminal ramifications for his act of production.

CONCLUSION

Plaintiffs have identified by its Serial Number the Sig Sauer assault rifle that shoots .308 caliber ammunition without modification and was purchased by Nathan Carman five weeks before his grandfather was murdered with a .308 round.

We have been trying to find out about that Sig Sauer and its whereabouts since June 15, 2017 when interrogatories were first served on Nathan Carman; since August 7, 2017 when they were re-served; since December 12, 2017 when the Court granted our motion to compel, ordering Nathan Carman to answer firearm Interrogatory 12(b) as

modified by the Court; since December 23, 2017 when on his own he tried to further modify firearm Interrogatory 12(b) and evaded answering it; since Nathan Carman's January 22, 2018 deposition when his counsel instructed him not to answer questions about the Sig Sauer; since March 30, 2018 when the Court granted our motion to compel those deposition answers; since June 29, 2018 when Judge Smith denied Nathan Carman's objections to the March 30, 2018 Order; and since we resumed Nathan Carman's deposition on July 17, 2018 and his testimony was mischievous garble and distorted, see *Klein v. Harris*, 667 F.2d 274, 287-88 (2d Cir. 1981).

It is time for Nathan Carman to come clean on his Sig Sauer's whereabouts or be held in contempt of court.

ORAL ARGUMENT REQUESTED

Plaintiffs request oral argument and believe 10 minutes per side should be sufficient.

RESPECTFULLY SUBMITTED August 22, 2018.

PLAINTIFFS

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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2018 I filed this reply via the CM/ECF System, through which a copy will be electronically delivered to Attorneys Anderson and Humphrey.

/s/ David J. Farrell, Jr.